

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

MIKE SWAFFORD,)	
)	
Plaintiff)	
)	
v.)	CAUSE NO. 3:06-CV-329 RM
)	
PRISON HEALTH SERVICES, <i>et al.</i> ,)	
)	
Defendants)	

OPINION AND ORDER

Mike Swafford filed this *pro se* action pursuant to 42 U.S.C. § 1983 against numerous defendants. All defendants have been either properly served or dismissed except for former Prison Health Services employees Dr. Eke Kalu, M.D., and Dr. David Hager, M.D. Pursuant to Sellers v. United States, 902 F.2d 598, 602 (7th Cir. 1990), and Graham v. Satkoski, 51 F.3d 710 (7th Cir. 1995), after the initial service of process failed, the United States Marshal for the Northern District of Indiana made a second attempt to serve these defendants at a more current address. On April 25, 2007, the court ordered Mr. Swafford to show cause why these defendants should not be dismissed. Mr. Swafford filed no response to the order to show cause.

The Marshals Service has now made a reasonable, but ultimately unsuccessful, effort to obtain an address for serving process on defendants Kalu and Hager, as required by Sellers v. United States and Graham v. Satkoski. Since more than 120 days have passed since the initial failure of service on these defendants, they are subject to dismissal without prejudice pursuant to Fed. R. Civ. P. 4(m). If Mr. Swafford is later able to locate these defendants, he may replead them into this action.

For the foregoing reasons, the court DISMISSES defendants Eke Kalu and David Hager from this action without prejudice pursuant to Fed. R. Civ. P. 4(m). This action remains before the court on the properly served defendants.

SO ORDERED.

ENTERED: July 2, 2007

/s/ Robert L. Miller, Jr.
Chief Judge
United States District Court